

SENATE BILL 8007 of the Second Extraordinary Session

By Yarbro

AN ACT to amend Tennessee Code Annotated, Title 9, Chapter 8, Part 3; Title 29, Chapter 34; Title 29, Chapter 20; Title 49, Chapter 7, Part 1; Title 50; Title 56 and Title 58, Chapter 2, relative to COVID-19-related liability.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 34, Part 2, is amended by adding the following:

In a civil action raising a claim arising from COVID-19, an employer's payment of a workers' compensation claim under the Workers' Compensation Law, compiled in title 50, chapter 6, is not evidence that COVID-19 was transmitted in the employer's workplace or evidence that the contraction of COVID-19 by the employer's employee arose out of or in the course of employment.

SECTION 2. Tennessee Code Annotated, Title 50, Chapter 6, Part 3, is amended by adding the following as a new section:

(a) It is the intent of the general assembly to ensure that businesses and employers continue to receive the protection of the workers' compensation system during the COVID-19 pandemic.

(b) As used in this section:

(1) "COVID-19" means the novel coronavirus, SARS-CoV-2, and coronavirus disease 2019, commonly referred to as COVID-19, including any mutation of SARS-CoV-2 or COVID-19; and

(2) "Essential worker" means:

(A) Those working for a business that has been designated as an essential business by the federal, state, or applicable local government;
or

(B) Those working for a business providing "essential services" as defined in the governor's Executive Order No. 22, dated March 30, 2020.

(c) For purposes of the coverage extended and policies issued pursuant to this chapter, COVID-19 is deemed an occupational disease.

(d)

(1) For purposes of this chapter, an employee who contracts COVID-19 is presumed to have an occupational disease arising out of and in the course of employment if ten (10) or more employees at the same location have contracted COVID-19 or if the employee is an essential worker.

(2) The presumption in subdivision (d)(1) may be rebutted if the employer or insurer demonstrates, by clear and convincing evidence, that the employee's contraction of COVID-19 did not arise out of or in the course of the employee's employment.

(3) Contraction of COVID-19 may be demonstrated through a positive laboratory diagnostic test; the written diagnosis of a licensed physician, physician's assistant, or nurse practitioner; or, in the case of a deceased employee, COVID-19 being listed as the cause of death on the employee's death certificate.

(e) Nonessential workers are not entitled to the rebuttable presumption in subsection (d), but are not precluded from filing workers' compensation claims based on contraction of COVID-19.

(f) An employer or insurer who exercises good faith in the administration of a COVID-19-related claim under this chapter retains all statutory protections established for the purpose of protecting persons or entities from COVID-19-related liability.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.